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Summary of Notice of Proposed Rule Making

1. The Commission initiated the instant proceeding to explore alternative uses of the 216-217 MHz band. Presently, this one megahertz of spectrum is allocated on a primary basis to the AMTS. In 1992, however, the Commission reallocated one megahertz of radio spectrum from the AMTS to the Interactive Video and Data Service (IVDS), effectively "orphaning" the 216-217 MHz band. Thus, in PR Docket 92-257, the Commission sought alternative uses for the spectrum that would not cause harmful interference to adjacent Television Channel 13 operations 9210-216 MHz).

2. The Commission proposes to permit a new Low Power Radio Service and AMTS coast station to share this one megahertz of spectrum on a secondary basis. Low Power Radio Services would include law enforcement tracking system, auditory assistance devices for the hearing impaired, and health care assistance devices for disabled and ill persons. A law enforcement tracking system includes extremely small radio transmitters attached to money and goods that are likely to be stolen. When activated, the small transmitters emit a low power signal that can be tracked by direction finding equipment, allowing authorities to quickly recover the stolen money or goods. An auditory assistance system consists of a short range transmitter and special receivers that allow persons with hearing disabilities to enjoy educational or entertaining audio presentations. Similarly, low power health care aids could be used for short range, one-way medical telemetry. Finally, AMTS coast stations could utilize highly directional antennas to transmit network control communications, thereby increasing system efficiencies.

3. There are forty, 25 kHz channels available in the 216-217 MHz band. The Commission proposes to allocate thirty channels (216.0125-216.7375 MHz) to the Low Power Radio Service and ten channels (216.7625-216.9875 MHz) for AMTS point-to-point communications. The twenty channels closest to TV Channel 13 would be limited to 100

milliwatts transmitter output power, and the other twenty channels would be limited to 1 watt. The Low Power Radio Service (excluding two channels set aside exclusively for law enforcement tracking systems) would be administered under Part 95 of the Commission's Rules, 47 CFR part 95. The exclusive tracking system channels would be administered under the Police Radio Service in Part 90. Further, the AMTS channels would be administered under the maritime service rules in Part 80.

4. Under the proposed rules, authorizations in the Low Power Radio Service would be granted based on Metropolitan Statistical Areas (MSAs) and Rural Statistical Areas (RSAs). The Commission did not propose to place a limit on the number of licensees per MSA and RSA or the total number of licenses a single entity could obtain. AMTS coast stations would simply add the new channels to their current station authorization. The Commission seeks specific comments concerning the proposed rule amendments.

5. Initial Regulatory Flexibility Analysis

Reason for Action

The Commission proposes to allow low power devices to share Automated Maritime Traffic System frequencies in the 216-217 MHz band.

Objectives

We seek to make better use of currently unused portions of the spectrum while taking advantage of alternative low power technologies.

Legal Basis

The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

Reporting, Recordkeeping and Other Compliance Requirements

Our proposed addition of 47 CFR 95.1031 would require the low power transmitters to be type accepted by the Commission.

Federal Rules Which Overlap, Duplicate or Conflict with These Rules

None.

Description, Potential Impact, and Small Entities Involved

Allowing low power devices to be licensed in the 216-217 MHz band would use the radio spectrum more efficiently, assist law enforcement organizations, and facilitate implementation of the provisions of the Americans with Disabilities Act of 1990.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

None.

Lists of Subjects

47 CFR Part 80

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 90

Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 95

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-13115 Filed 5-26-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

Petition for Rulemaking; Iowa Automobile Dealers Association

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition by the Iowa Automobile Dealers Association to amend the provision of the agency's Odometer Disclosure regulations (49 CFR part 580) requiring both the buyer and seller of a vehicle to print their names, along with their written signatures on the odometer statements made on the vehicle title in connection with the transfer of ownership of the vehicle. 49 CFR 580.5(c). The petition is denied because the agency finds that the hand-printing requirement serves a law enforcement need and because the petitioner cited no particular burden arising from the requirement.

FOR FURTHER INFORMATION CONTACT:

Eileen T. Leahy, Attorney, Office of the Chief Counsel, NHTSA, 400 Seventh Street, SW., Room 5219, Washington, DC 20590; 202-366-5263.

SUPPLEMENTARY INFORMATION:

Background

Chapter 327 of Title 49 of the United States Code (formerly Title IV of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1981–1991) (“the Act”) sets forth certain requirements concerning odometers in motor vehicles. Among other things, the Act prohibits disconnecting, resetting, or altering motor vehicle odometers and requires the execution of an odometer disclosure statement incident to the transfer of ownership of a motor vehicle. The Act also subjects violators to civil and criminal penalties, and provides for enforcement through civil action by the United States in Federal courts (for injunctive relief), by State attorneys general (for damages and injunctive relief), and by private individuals (for damages). The provisions requiring odometer disclosure statements to be included on vehicle titles were added by the Truth in Mileage Act of 1986 (Pub. L. 99–579) (“TIMA”), and reflect Congress’ intent to address the growing national problem of odometer tampering in motor vehicles.

Section 32705 of the title 49 directs the Secretary of Transportation to promulgate rules governing the making of odometer disclosure statements. In accordance with that mandate, NHTSA published a regulation (49 CFR part 580) which requires, in connection with the transfer of ownership of a motor vehicle, that each transferor must disclose the mileage to the transferee in writing on the title (or in some cases on the document being used to reassign the title). The regulation details the minimum contents of the disclosure, requires the disclosure to be signed by both the transferor and the transferee, and provides that no person shall sign the disclosure statement as both the transferor and transferee in the same transaction, except in limit circumstances.

The regulation requires that the handwritten signatures of both the transferor and transferee be accompanied by their respective printed names. 49 CFR 580.5(c), (f). In both the preamble to the rule promulgating 580.5 and subsequent written interpretations, the agency has stated that the printed name requirement means that the name must be entered by hand by the same person who signed the form. 53 FR 29470 (Aug. 5, 1988).

The Petition

By letter of October 4, 1994, petitioner Iowa Automobile Dealers Association (hereinafter petitioner) asked NHTSA to change the requirement that the

transferee and transferor hand print their names on the odometer disclosure. Because this requirement is contained in the regulation, and therefore could only be amended by rulemaking, the agency decided to treat petitioner’s letter as a request for rulemaking. The petition does not cite any burden that requirement imposes on petitioner or its members as a basis for the change it requests. The only concern expressed by petitioner is that when a state that enforces the requirement sends back to an out-of-state dealer a title on which the transferor’s name that has not been hand-printed, the dealer will print the transferor’s name rather than sending it back to the seller to have the name hand-printed. This practice, as petitioner notes, violates NHTSA’s regulation.

Discussion

When it adopted the printed name requirement, the agency stated that it is needed because “it is helpful in the course of an investigation (of odometer fraud) to identify the person signing the statement where signatures are difficult to read.” 53 FR 29470. In subsequent interpretations, the agency has further explained the necessity of having the names printed by hand rather than by electronic or mechanical means.

The hand-printing requirement enables investigators to perform handwriting analysis to identify the signers of the disclosure in those instances in which the written signature is not sufficiently legible to provide a sample adequate for analysis. It is known to the agency that it is a common practice for individuals involved in odometer fraud schemes to transfer motor vehicle titles to automobile dealers and individuals without their knowledge, to make it appear that the other person or dealer was responsible for rolling back the odometer. In many cases, the other dealer or individual does not exist. In these instances, the perpetrators forge the signatures on the odometer disclosure statement, taking care that the signatures on the odometer disclosure and title transfer documents contain few or no characteristics or individualities for a handwriting analyst to use to identify the perpetrator as the actual signer. Commonly, the cursive “signature” in such cases will consist of nothing more than a curve or straight line.

In such situations, the cursive “signature” alone is obviously useless to the handwriting analyst. But analysts are able to use the printed name, either alone or in combination with the cursive signature, to establish proof of the identity of the signer. This is

because it is impossible to hand-print letters without distinguishing characteristics or individualities, which are the essential elements used by handwriting analysts to prove the true identity of a writer.

From its long experience in the investigation of odometer fraud, the agency is aware of how common it is for the perpetrators to sign disclosure and title documents illegibly to avoid detection. Therefore, the ability to identify signers by handwriting analysis is critical to the Government’s ability to investigate and prosecute cases of odometer fraud. This essential tool would be lost if the agency were to drop the requirement for hand-printed names and permit use of mechanical or electronic printing.

The importance of having the proper tools available for successful prosecution of those responsible for odometer fraud cannot be overstated. There were an estimated 12 million used cars sold in 1993. Thus, at least 24 million persons were required to sign and hand-print their names as either buyer or seller in these transactions. During 1993, 48 individuals were convicted of odometer fraud in the Federal courts alone. These cases were prosecuted by the United States Department of Justice (USDOJ). The USDOJ concentrates its criminal prosecution efforts on large-scale, interstate odometer tampering schemes. NHTSA estimates that the 48 individuals convicted of odometer fraud in Federal court in 1993 were responsible for the odometers being rolled back on more than 40 thousand vehicles, accounting for approximately \$160 million in consumer fraud.

In almost all cases that go to a grand jury, the Federal prosecutors obtain handwriting and handprinting exemplars. For cases that go to trial, this type of evidence is nearly always available if needed. There was no trial in most of the 48 Federal cases resulting in convictions in 1992 because the defendants entered guilty pleas. It is not possible to measure precisely the role of handwriting analysis based on handprinting in either the decisions to plead guilty or the fact-finder’s decisions to find the defendant guilty. Nevertheless, the frequency with which perpetrators of odometer fraud attempt to hide their identity by using a cursive signature with no identifying characteristics strongly suggests that the availability of handwriting analysis often would play a decisive role in a defendant’s decision whether or not to go to trial, and in a judge’s or jury’s decision to convict.

In addition to the cases prosecuted by the USDOJ in Federal court, there were numerous criminal and civil convictions in odometer fraud cases in State and local courts. For instance, the Iowa Attorney General's office referred 30 odometer fraud cases to County Attorneys for prosecution, and the California Department of Motor Vehicles reported 660 convictions for odometer fraud in 1993. These figures represent only a fraction of the total number of odometer fraud cases prosecuted nationwide.

Petitioner has cited no burden that the hand-printing requirement imposes on itself or its members. The only concern it expresses is that a dealer that receives a title from state authorities who have rejected it because of failure to meet the hand-printing requirement will hand-print the name of the person from whom it purchased the vehicle rather than sending it back to that person to hand-print their name. This practice is of concern to NHTSA because it is a violation of its regulations. However, the better solution to the problem seems to be to educate dealers on the importance of obtaining hand-printed names in the first instance, rather than dispensing with the requirement altogether. Dealer organizations such as that represented by petitioner can play an important role in ensuring that dealers are fully informed of the requirements of the Federal odometer disclosure law.

For the foregoing reasons, the petition is denied.

Issued on: May 24, 1995.

John Womack,

Acting Chief Counsel.

[FR Doc. 95-13167 Filed 5-26-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 950522140-5140-01; I.D. 050595E]

RIN 0648-XX22

Summer Flounder Fishery; 1995 Recreational Fishery Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to amend the regulations

implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP). This rule proposes season dates, a possession limit, and a minimum fish size for the 1995 recreational fishery. The recreational season would be open from January 1 through December 31, with a possession limit of 6 fish per person and a minimum fish size of 14 inches (35.6 cm). The proposed 1995 season, possession limit, and minimum fish size are specified to achieve the 1995 coastwide recreational harvest limit, which is 7.8 million lbs (3.5 million kg).

DATES: Public comments are invited through June 23, 1995.

ADDRESSES: Comments should be sent to, and copies of the environmental assessment (EA) prepared for the 1995 summer flounder specifications are available from the Regional Director, NMFS, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, 508-281-9101.

SUPPLEMENTARY INFORMATION:

Section 625.20 of the regulations implementing the FMP outlines the process for determining annual commercial and recreational catch quotas and other restrictions for the summer flounder fishery. The Summer Flounder Monitoring Committee (Committee), made up of representatives from the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fishery Management Council (Council), the New England Fishery Management Council, and NMFS, is required to review, on an annual basis, scientific and other relevant information and to recommend a quota and other restrictions necessary to achieve a fishing mortality rate of 0.53 in 1993 through 1995, and 0.23 in 1996 and thereafter. This schedule of fishing mortality rates is mandated by the FMP to prevent overfishing and to rebuild the summer flounder resource. The Committee reviews the following information annually: (1) Commercial and recreational catch data; (2) current estimates of fishing mortality; (3) stock status; (4) recent estimates of recruitment; (5) virtual population analysis, a method for analyzing fish stock abundance; (6) levels of regulatory noncompliance by fishermen or individual states; (7) impact of fish size and net mesh regulations; (8) impact of gear, other than otter trawls, on the mortality of summer flounder; and (9) other relevant information. Pursuant to § 625.20, after this review the Committee recommends management measures to ensure achievement of the appropriate fishing mortality rate. These

measures include: (1) Commercial quota, (2) commercial minimum fish size, (3) minimum mesh size, (4) recreational possession limit within the range of 0 to 15 fish per person per day, (5) recreational minimum fish size, (6) recreational season, and (7) restrictions on gear other than otter trawls.

Measures (1), (2), (3), and (7) above were implemented on February 10, 1995 (60 FR 8958, February 16, 1995). The management measures contained in the final specifications were: (1) A coastwide commercial quota of 14.7 million lbs (6.7 million kg), (2) a coastwide recreational harvest limit of 7.8 million lbs (3.5 million kg), (3) no change from the present minimum commercial fish size of 13 inches (33 cm), and (4) no change in the present minimum mesh-size restriction of 5½-inch diamond (14.0 cm) or 6-inch square (15.2 cm).

The recreational season, possession limit, and minimum size were not established as part of the final specifications because recreational catch data for 1994 was not available for the Committee's use in evaluating the effectiveness of the 1994 season and possession limit. Shortly after this data became available, the Committee met to review the 1994 data and to recommend measures for 1995. The Committee recommended elimination of the closed season, an individual possession limit of 6 fish per person, and a minimum fish size of 14 inches (35.6 cm).

These recommendations were adopted by the Council's Demersal Species Committee on March 14, 1995, but the possession limit was revised by the "full" Council at its meeting of March 15-16, 1995. The Council's recommendation to the Director, Northeast Region, NMFS (Regional Director) was for elimination of the closed season in 1995, an individual possession limit of 8 fish per person, and a minimum fish size of 14 inches (35.6 cm).

On April 12, 1995, the Regional Director disapproved the Council's recommendation, citing inconsistency with the Council's earlier recommendation to the Regional Director to take all appropriate actions to ensure that the target fishing mortality rate is not exceeded in 1995. The Regional Director informed the Council that their recommendation, being less restrictive than measures imposed in 1994, was inconsistent with their earlier expressed concern. The Regional Director invited the Council to reconsider and develop a proposal that would address the inconsistency without compromising conservation.